

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILMER B. GAY,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	
ROBERT D. SHANNON, et al.,	:	NO. 02-CV-4693
Defendants	:	

**ORDER**

AND NOW, this            day of            , 2005, upon  
consideration of Plaintiff's Motion for Joinder of Persons Needed for Just  
Adjudication, and Major Mooney's Response thereto, it is hereby  
ORDERED that Plaintiff's Motion for Joinder is DENIED.

BY THE COURT:

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NORMA L. SHAPIRO,            S.J.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILMER B. GAY,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	
ROBERT D. SHANNON, et al.,	:	NO. 02-CV-4693
Defendants	:	

**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR JOINDER  
OF PERSONS NEEDED FOR JUST ADJUDICATION**

Defendant Mooney opposes Plaintiff's Motion for Joinder, incorporates by reference plaintiff's first amended complaint, the Commonwealth defendants' Motion to Dismiss, and this Court's Opinion and Order dated March 1, 2005, and states the following in support of his Response in Opposition:

Plaintiff has no claim against Mr. Yarnell. See Amended Complaint at ¶¶ 170-174 (wherein plaintiff states that he filed a grievance against Mr. Yarnell on behalf of kitchen workers and that he never worked under Mr. Yarnell, or in the food preparation area, as evidenced by the fact that he had to consult another inmate to find out what the kitchen area even looked like). Thus, plaintiff's claim that Mr. Yarnell "DEPRIVED plaintiff of rights, privileges and immunities secured by the Constitution and Laws of the United States", is patently frivolous.

Also, Mr. Yarnell's absence as a party will not affect complete relief in the event that plaintiff succeeds at trial. The only claim left in this case is the claim that defendant Mooney wrote a false misconduct

because plaintiff had testified previously at another inmate's trial. Mr. Yarnell, the food services manager, has nothing to do with this or any remedy for it. His joinder will just complicate the litigation of the claim against Mooney.

Accordingly, Plaintiff's Motion for Joinder should be DENIED as set forth in the proposed Order.

THOMAS W. CORBETT, JR.  
ATTORNEY GENERAL

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Patrick J. McMonagle  
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Susan J. Forney  
Chief Deputy Attorney General  
Chief, Litigation Section

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**CERTIFICATE OF SERVICE**

I, Patrick J. McMonagle, Deputy Attorney General, hereby certify that a true and correct copy of the Commonwealth Defendant's Response in Opposition to Plaintiff's Motion for Joinder was filed electronically and is available for viewing and downloading from the ECF system as of March 25, 2005. I further certify that a true and correct copy of said document was mailed on March 25, 2005:

Wilmer Gay  
Inmate AF-2709  
State Correctional Institution - Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112

THOMAS W. CORBETT, JR.  
ATTORNEY GENERAL

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